

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RANDAL EUGENE PARRAN, : CIVIL NO. 3:14-CV-1522

:

Plaintiff :

: (Judge Munley)

v.

:

JOHN WETZEL, et al., :

:

Defendants :

ORDER

AND NOW, to wit, this 23rd day of March 2016, upon consideration of the motion (Doc. 30) to dismiss the amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) filed on behalf of the Commonwealth defendants, and defendant Voorstad's motion (Doc. 42) to dismiss the amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) or, in the alternative, for summary judgment pursuant to Federal Rule of Civil Procedure 56, and for the reasons set forth in the Court's memorandum of the same date, it is hereby **ORDERED** that:

1. The Commonwealth defendants' motion (Doc. 30) to dismiss the amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) is **GRANTED IN PART** and **DENIED IN PART**.
 - a. The Commonwealth defendants' motion (Doc. 30) to dismiss is **GRANTED** with respect to plaintiff's 42 U.S.C. §§ 1981, 1985, and 1986 claims. These claims are **DISMISSED** in their entirety.
 - b. The motion (Doc 30) to dismiss the 42 U.S.C. § 1983 claim is **GRANTED** as to the First, Fourth, Fifth and Fourteenth Amendments. These claims against the Commonwealth Defendants are **DISMISSED**

in their entirety.

- c. The motion (Doc. 30) to dismiss the 42 U.S.C. § 1983 claim is DENIED as to the Eighth Amendment condition of confinement claim against defendants Francis, Hibshmen, Hoerner, Huber, Leedom, Lewis, Little, Mihal, Stern, Swartz, and Taylor. The motion is also DENIED with respect to the Eighth Amendment denial of adequate medical treatment claim against defendants Byrd, Hibshmen, Hoerner, Leedom, Lewis, Little Mihal, Shoop, Swartz, and Taylor. These claims will be consolidated into plaintiff's other pending matter, Parran v. Voorstead, 3:13-cv-0275.
2. Voorstad's motion (Doc. 42) to dismiss the amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) or, in the alternative, for summary judgment pursuant to Federal Rule of Civil Procedure 56, is disposed of as follows:
 - a. The motion to dismiss the 42 U.S.C. § 1983 claim is GRANTED as to the Fourth and Fourteenth Amendments. These claims are DISMISSED in their entirety.
 - b. The motion is DENIED with respect to the Eighth Amendment denial of adequate medical treatment claim against defendants.
 - c. The motion for summary judgment is GRANTED with respect to the Eighth Amendment denial of adequate medical care. The Clerk of Court is directed to ENTER judgment in favor of defendant Voorstad and against plaintiff.
3. The Clerk of Court is directed to CONSOLIDATE this civil action, 3:14-cv-1522, into civil action 3:13-cv-0275, for purposes of the continued litigation of plaintiff's Eighth Amendment claims against remaining defendants Byrd, Francis, Gonzales, Hibshmen, Hoerner, Huber, Leedom, Lewis, Little, Mihal, Shoop, Stern, Swartz, and Taylor, and CLOSE this case.
4. The Clerk of Court is directed to ADD to the docket in civil action 3:13-cv-0275, the names of the following defendants: Byrd, Francis, Gonzales, Hibshmen, Hoerner, Huber, Leedom, Lewis, Little, and Stern. There is no need to add Mihal (named as "Mihul"), Shoop, Swartz, and Taylor as they are already identified as defendants in civil action 3:13-cv-0275
5. On or before April 15, 2016, plaintiff shall provide the Court with valid addresses and additional information to assist in identifying and serving

defendants “Gonzales” and “Little” or “Littles.” In providing any additional information, plaintiff is directed to utilize the docket number 3:13-cv-0275.

6. Failure to provide the court with valid addresses and proper identities and as to these defendants, within the time frame set forth above, will result in dismissal of the complaint as to these defendants pursuant to Federal Rule of Civil Procedure 4(m).

BY THE COURT:

s/James M. Munley
JUDGE JAMES M. MUNLEY
United States District Court